

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP,

and

TAIWAN SCOTT, on behalf of himself and all
other similarly situated persons,

Plaintiffs,

v.

HENRY D. MCMASTER, in his official
capacity as Governor of South Carolina;
HARVEY PEELER, in his official capacity as
President of the Senate; LUKE A. RANKIN, in
his official capacity as Chairman of the Senate
Judiciary Committee; JAMES H. LUCAS, in
his official capacity as Speaker of the House of
Representatives; CHRIS MURPHY, in his
official capacity as Chairman of the House of
Representatives Judiciary Committee;
WALLACE H. JORDAN, in his official
capacity as Chairman of the House of
Representatives Elections Law Subcommittee;
HOWARD KNAPP, in his official capacity as
interim Executive Director of the South
Carolina State Election Commission; JOHN
WELLS, JOANNE DAY, CLIFFORD J.
ELDER, LINDA MCCALL, and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina State Election
Commission,

Defendants.

Civil Action No. 3:21-cv-03302-JMC-TJH-
RMG

**JOINT MOTION FOR AN
EMERGENCY HEARING REGARDING
SCHEDULING**

COME NOW Plaintiffs the South Carolina State Conference of the NAACP and Taiwan Scott (collectively, “Plaintiffs”), joined by Defendants Henry D. McMaster, Governor of South Carolina; Harvey Peeler,¹ President of the Senate; Luke A. Rankin, Chairman of the Senate Judiciary Committee; James H. Lucas, Speaker of the House of Representatives; Chris Murphy, Chairman of the House of Representatives Judiciary Committee; Wallace H. Jordan, Chairman of the House of Representatives Elections Law Subcommittee; Howard Knapp, Executive Director of the South Carolina State Election Commission; and John Wells, Joanne Day, Clifford J. Elder, Linda McCall, and Scott Moseley, each members of the South Carolina State Election Commission (collectively, “Defendants”), by and through their respective counsel, and jointly request that the Court hold an emergency hearing regarding scheduling no later than Tuesday, December 21, 2021.

ARGUMENT

Plaintiffs filed their original Complaint on October 12, 2021. ECF No. 1. On November 4, 2021, the House Defendants filed a Motion to Stay. ECF No. 51. On November 9, 2021, Plaintiffs filed a Motion for Preliminary Injunction. ECF No. 59. That same day, the Senate Defendants filed a Motion to Dismiss or, in the Alternative, to Stay the Case (ECF No. 57), and the Governor filed a Motion to Dismiss (ECF No. 61). On November 12, 2021, the Court entered an Order and Opinion granting in part the House Defendants’ Motion to Stay, denying the Senate Defendants’ Motion to Dismiss, and staying the case until January 18, 2022. *See* ECF No. 63. In its Order, the Court declined to rule on the Governor’s Motion to Dismiss and “[a]ssum[ed] without deciding that Plaintiffs have standing to bring their claim,” “conclud[ing] nonetheless that Plaintiffs’ claims

¹ On December 6, 2021, after this litigation commenced, the South Carolina Senate elected a new President. Therefore, Thomas C. Alexander, the new President of the Senate, is automatically substituted for Senator Harvey Peeler as a party. *See* Fed. R. Civ. P. 25(d)(1).

are not yet ripe and stay[ing] the proceedings to give the Legislature the opportunity to timely perform its redistricting duties.” *Id.* at 9.

On December 6, 2021, the Court issued a Text Order (ECF No. 69) setting a response deadline of December 17, 2021, for two pending motions: Plaintiffs’ Motion for a Preliminary Injunction (ECF No. 59) and the Governor’s Motion to Dismiss (ECF No. 61). On December 15, 2021, Plaintiffs’ counsel—with the consent of all Defendants—filed a letter informing the Court that due to the enactment of legislation creating new House and Senate districts, Plaintiffs intend to file an amended complaint on or before December 23, 2021. *See* ECF No. 73. Because the filing of an amended complaint would moot Plaintiffs’ Motion for Preliminary Injunction and the Governor’s Motion to Dismiss, *see Truauto, LLC v. Textron Specialized Vehicles, Inc.*, No. 2:19-CV-1381-RMG, 2019 WL 7811290, at *1 (D.S.C. Sept. 27, 2019), Plaintiffs requested and received Defendants’ consent to amend their complaint and to seek an extension of time for all parties to respond to the pending motions. *See* ECF No. 73. Accordingly, Plaintiffs requested, “[i]n the interest of judicial economy and preserving the parties’ resources,” that the Court extend the December 17, 2021 deadline for responses to the pending motions until December 27, 2021, because Plaintiffs’ plans to file an amended complaint in the interim would “make responses to those motions unnecessary.” *See* ECF No. 73.

On December 16, 2021, the Court issued a Text Order acknowledging Plaintiffs’ intent to “file an amended complaint by December 23, 2021, as a result of legislation signed by Governor McMaster on December 10, 2021, creating new maps for the South Carolina House of Representatives and Senate districts.” ECF No. 74.² Accordingly, the Court’s Text Order postponed the filing of responses to the two pending motions since such motions will become moot

² Legislation regarding the U.S. Congressional districts is forthcoming.

upon the filing of Plaintiffs' amended complaint. *Id.* In addition to the foregoing, the Court further ordered that "any new motions regarding the amended complaint shall be filed by December 28, 2021, and any subsequent responses shall be due by January 5, 2021." *See id.*

Plaintiffs' original complaint and preliminary injunction in this action sought only to require the South Carolina Legislature to pass House and U.S. Congressional maps into law by a date that would allow for the resolution of any necessary litigation ahead of the statutory March 30, 2022 candidate declaration deadline. ECF No. 59 at 20-21 (asking the Court to impose a December 15, 2021 deadline for the Legislature to pass maps). By contrast, Plaintiffs' amended complaint will contain substantive legal challenges to individual State legislative districts.

The Parties share and appreciate the Court's interest in the expeditious administration of justice. However, all Parties agree that meeting the December 28 and January 5 deadlines imposed by the December 16, 2021 Text Order pose an undue burden. Accordingly, the Parties ask the Court to provide them with an opportunity to articulate why a briefing schedule with later deadlines promotes both the interest and appearance of justice in this matter.

CONCLUSION

The Court should grant this Joint Motion agreed to by all Parties, and the Parties request the Court hold an emergency hearing no later than Tuesday, December 21, 2021.

Respectfully submitted,

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**Pro hac vice* application forthcoming